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Romeo Aranas, Isidro Baca, Shelly Conlin,  
Richard Long, David Mar,  
Melissa Mitchell and William Miller*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CHARLES MORRIS.

Case No. 3:18-cv-00310-RCJ-CLB

**Plaintiff,**

vs.

ROMEO ARANAS, et al.,

## Defendants.

**UNOPPOSED MOTION TO EXTEND  
THE DISPOSITIVE MOTIONS  
DEADLINE AND REQUESTING THAT  
THE DUE DATE BE EXTENDED BY  
FORTY-FIVE DAYS FROM  
MAY 7, 2021, TO JUNE 21, 2021**

**(SECOND REQUEST TO EXTEND  
THE DISPOSITIVE MOTIONS  
DEADLINE)**

Defendants, Romeo Aranas, Isidro Baca, Shelly Conlin, Richard Long, David Mar,

Melissa Mitchell and William Miller, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Mandana Divanbeiki, Deputy Attorney General, hereby move to extend by forty-five days the dispositive motions deadline only from May 7, 2021, to June 21, 2021. This motion is unopposed.

On May 7, 2021, counsel for Defendants met and conferred via telephone with Plaintiff Charles Morris to discuss the instant motion to extend the deadline to file dispositive motions. Morris stated that this motion is unopposed. Defendants move for a deadline extension for the reasons stated below.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. LAW AND ARGUMENT

#### A. Rule 6(b), Federal Rules of Civil Procedure.

Rule 6(b)(1), Federal Rules of Civil Procedure, governs extensions of time and states:

When an act may or must be done within a specified time, the Court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

If additional time for any purpose is needed, the proper procedure is to present a request for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). An extension of time may always be sought and is usually granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

#### **B. Local Rules IA 6-1 and 26-3.**

LR IA 6-1 requires that a motion to extend time must state the reasons for the extension requested and will not be granted if requested after the expiration of the specified period unless the movant demonstrates that the failure to file the motion before the deadline expired resulted because of excusable neglect. LR 26-3 requires that a motion to extend any date set by the discovery plan, scheduling order, or other order must, as well as satisfying the requirements of LR IA 6-1, demonstrate good cause for the extension, and such a motion filed after the expiration of the deadline will not be granted unless the movant demonstrates that the failure to act resulted from excusable neglect.

Finally, LR 26-3 lists four factors that are considered upon adjudication of a motion to extend a discovery deadline or to reopen discovery: (a) a statement specifying the discovery completed; (b) a specific description of the discovery that remains to be completed; (c) the reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and (d) a proposed schedule for completing all remaining discovery.

1           **C. Good cause exists, thus an order should grant Defendants' motion for an**  
2           **extension of the dispositive motions deadline.**

3           Here, good cause exists for extending the dispositive motions deadline by forty-five  
4          days. Defendants intend to move for summary judgment and will raise a qualified  
5          immunity defense and argue that no constitutional violations occurred. By extending the  
6          deadline by forty-five days, Morris is under no danger of prejudice, and the delay is short.

7           Attorney Divanbeiki started with the Nevada Attorney General's Office  
8          approximately two months ago. Upon commencement of her employment, Attorney  
9          Divanbeiki became counsel of record for the defense in approximately thirty actions and  
10         has worked assiduously and expeditiously to review each case file.

11          Attorney Divanbeiki inherited a somewhat chaotic and pressing caseload that  
12         required her paying attention to multiple imminent deadlines; she has spent much of her  
13         time reviewing her current cases, responding to those deadlines, and resolving discovery  
14         issues as well as preparing for multiple early inmate mediation conferences et al. She  
15         assumed defense responsibilities for this action as recently as March 10, 2021 (ECF No.  
16         57), thus has had very little time with which to acquaint herself with this complex medical  
17         case.

18          Attorney Divanbeiki has a medical condition that has required her recent attendance  
19         at physical therapy. She suffers from an acute case of shoulder and neck pain (rotator cuff  
20         strain) that requires the use of painkillers. Also, she must get up and move around  
21         frequently. This has undoubtedly slowed down temporarily her typing and writing speed  
22         and her ability to sit for extended periods. This medical condition requires ongoing care but  
23         is improving. In sum, because of a heavy caseload, being a new starter, and having a  
24         temporary medical condition, Attorney Divanbeiki would benefit from a brief extension of  
25         time.

26          Morris sues for two counts of Eighth Amendment deliberate indifference and his case  
27         preparation involves his examining copious amounts of medical records. Morris indicated  
28         to Attorney Divanbeiki at today's meet and confer that he also needs an extension of time

1 to file his motion for summary judgment because he is disabled and because he has yet to  
2 review fully his medical records.

3 A January 6, 2021 order (ECF No. 51) grants previous defense counsel's January 4,  
4 2021 motion (ECF No. 49) to extend the dispositive motions deadline to May 7, 2021. The  
5 January 6 order states:

6 Because the Defendants do not know when Plaintiff review his medical  
7 records due to COVID restrictions, the Court GRANTS Defendants' motion  
(ECF No. 49) to allow a thirty-day extension as follows:

8 Discovery Deadline as to William Miller only: April 7, 2021  
9 Dispositive Motions Deadline: May 7, 2021  
Joint Pretrial Order Deadline: June 7, 2021 or thirty days following the court's  
ruling on dispositive motion(s)

10 The Office of the Attorney General shall make arrangements for Plaintiff to  
review his medical records as soon as is practical due to COVID restrictions.

11 (ECF No. 49 at 1–2)

12 Morris states that he still has not reviewed fully the records as ordered above; this  
is due mainly to COVID restrictions, and defense counsel is working flat out to ensure that  
Morris has necessary and continued access in accord with the Court's January 6 order.  
Thus, a forty-five-day extension will allow Morris to view his remaining records and  
prepare his motion for summary judgment.

13 Finally, because of the COVID pandemic, Attorney Divanbeiki has worked from  
home for much of the time, and this has made discovery more difficult than usual; her  
ability to access Morris's medical and other records (in addition to necessary declarations  
and the like) has been impeded and slowed down; however, Attorney Divanbeiki is working  
diligently to defend this action. In sum, Attorney Divanbeiki needs additional time in order  
to adequately brief the Court for summary judgment in this action.

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1           **D. The Four Factors Contained within LR 26-3 are satisfied.<sup>1</sup>**

2           The four factors contained within LR 26-3—(a) a statement specifying the discovery  
3 completed; (b) a specific description of the discovery that remains to be completed; (c) the  
4 reasons why the deadline was not satisfied or the remaining discovery was not completed  
5 within the time limits set by the discovery plan; and (d) a proposed schedule for completing  
6 all remaining discovery—are satisfied. Defendants have completed discovery in this action,  
7 and no further discovery is needed. The reasons why both Morris and Defendants are  
8 unable to adhere to the dispositive motions deadline are succinctly and thoroughly  
9 elaborated on at length in the preceding paragraphs. No discovery remains, but Defendants  
10 move to amend the scheduling order to extend by forty-five days the dispositive motions  
11 deadline.

12           **E. Meet and Confer**

13           On May 7, 2021, counsel for Defendants met and conferred via telephone with Morris  
14 to discuss this motion to extend the deadline to file dispositive motions. Morris stated that  
15 this motion is unopposed.

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25           <sup>1</sup> LR 26-3 lists four factors that are considered. Arguably, these apply only when a party  
26 moves for an extension to extend a discovery deadline or to reopen discovery; here, NDOC  
27 Employees neither move to extend a discovery deadline nor move to reopen discovery, but because  
28 this motion seeks to extend a deadline originally established by a January 6, 2021 scheduling order  
(ECF No. 51) to May 7, 2021, out of an abundance of caution, the factors contained within LR 26-3  
are addressed in case the court decides that the four-factor requirement contained within that rule  
applies in this instance.

1       II. CONCLUSION

2       Both Defendants and Morris demonstrate good cause to extend the dispositive  
3 motions deadline to June 21, 2021. Morris does not oppose this motion. Due to the nature  
4 of summary judgment and the time and complexity involved in adequately briefing the  
5 court, and because the Ninth Circuit and other appellate courts prefer to see that cases are  
6 tried on the merits and not on a technicality, Defendants respectfully move for an extension  
7 of time to file a motion for summary judgment and request that the due date be extended  
8 from **May 7, 2021, to June 21, 2021.**

9       DATED this 7th day of May, 2021.

10                   AARON D. FORD  
11                   Attorney General

12                   By: /s/ Mandana Divanbeiki  
13                   MANDANA DIVANBEIKI (Bar No. 14862)  
14                   Deputy Attorney General

15                   *Attorneys for Defendants*  
16                   *Romeo Aranas, Isidro Baca, Shelly Conlin,*  
17                   *Richard Long, David Mar, Melissa*  
18                   *Mitchell and William Miller*

19                   NO FURTHER EXTENSIONS OF TIME WILL BE  
20                   GRANTED ABSENT EXTRAORDINARY CIRCUMSTANCES.

21                   IT IS SO ORDERED.

22                   Dated: May 10, 2021

23                     
24                   UNITED STATES MAGISTRATE JUDGE

## CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on May 7th, 2021, I electronically filed the foregoing **UNOPPOSED MOTION TO EXTEND THE DISPOSITIVE MOTIONS DEADLINE AND REQUESTING THAT THE DUE DATE BE EXTENDED BY FORTY-FIVE DAYS FROM MAY 7, 2021, TO JUNE 21, 2021 (SECOND REQUEST TO EXTEND THE DISPOSITIVE MOTIONS DEADLINE)**, via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically.

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Plaintiff, Pro Se

/s/Sheri Regalado  
Sheri Regalado, An employee of the Office  
of the Nevada Attorney General